

REMARKS/ARGUMENTS

Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested.

I. Status of the Claims

Claims 1-17 and 20-22 are currently pending. Claims 1 and 20 have been amended. Claims 21-22 have been added. Claims 18 and 19 have been cancelled. No new matter has been added by way of amendment or addition.

II. Rejection under 35 U.S.C. § 102(b)

Claims 1 and 19 are rejected under 35 U.S.C. § 102(b) as being anticipated by Diaz (U.S. Pat. No. 5,139,163). Applicant respectfully traverses the rejection. It is respectfully submitted that Diaz does not anticipate the presently claimed invention.

Applicants submit that in order for a reference to anticipate a claim, the reference must disclose each and every limitation of the claimed invention. *Dana Corp. v. Am. Axle & Mfg., Inc.*, 61 USPQ 2d 1609 (Fed. Cir. 2002). It follows that if a reference does not disclose a limitation of the claims, it cannot be said to anticipate the claim. As amended, claim 1 recites:

A cap disposed around a lid of a container for canned drinks comprising a seal face part made as a film to expand and contract and covers a top face of said container for canned drinks and an outer-perimeter part being an elastic material to expand and contract and is disposed on an outer perimeter of said seal face part, said outer-perimeter part having a cross-sectional composition that is configured and arranged to couple with a recess below a seam part of said container...wherein a thickness of said seal face part is less than a thickness of said outer-perimeter part.

Support for this amendment can be found in at least paragraph [0012] and FIGS. 1B and 2 of the Pre-grant Publication U.S. 2006/0060584.

Diaz discloses a reclosable cover for a beverage can which has a cover body 20 with a lid 22 on top and sidewalls 24 on the periphery. Diaz teaches that the cover body 20 may be formed with

a thickness from 0.025 inches to 0.030 inches (Diaz 3:47-56). Diaz is silent on the thickness of the outer-perimeter part of the reclosable cover. Thus, Diaz does not teach or suggest that the lid 22 part has a thickness less than the outer-perimeter part.

Based on the above, Applicant submits that claim 1 as amended is not anticipated by Diaz. Claims 2 and 20-22 depend from claim 1 and are allowable based at least on the arguments above. Applicant respectfully requests that the rejection be withdrawn.

III. Rejection under 35 U.S.C. § 103(a)

Claim 2 is rejected as being obvious over Diaz as applied to claim 1 above, in view of Deline (U.S. Pat. No. 4,708,257). Claim 1, 19 and 20 are rejected as being obvious over Diaz in view of Hardt (U.S. Patent No. 4,328,905). Applicant respectfully traverses the rejection.

Claim 2 recites the cap for canned drinks according to claim 1, wherein said seal face part and outer-perimeter part are made of at least one of polystyrene and polypropylene by injection molding as one unit, a thickness of said seal face part is equal to 0.4 mm or less and a thickness of said outer-perimeter part is equal to 0.5 mm or greater.

The Office Action agrees that Diaz does not disclose a thickness of said seal face part that is equal to 0.4 mm or less (Office Action, p. 3). Instead, the Office Action turns to Deline for providing the recited seal face part. Deline is directed to a protective seal for a can. The seal is in the form of a "thin film adapted to cover the top of the can to prevent contamination of the top surface" (Deline 1:5-10). Deline teaches that the sealing means requires an additional step of securing the sealing means to a can such as using an adhesive (*See* Deline 2: 9-16). Deline does not teach or suggest an outer-perimeter part. Thus, Deline does not teach or suggest a seal face part and an outer-perimeter part wherein a thickness of said seal face part is less than a thickness of said outer-perimeter part as recited in claim 1.

Furthermore, one of ordinary skill in the art would not combine the sealing means 4 of Deline with the cover body 20 of Diaz. While Diaz relies on sidewalls 24 on the periphery for

attachment to the container, Deline relies on contact between the circumference of sealing means 4 with the can (Deline 2:5-17). The Office Action contends that it “would have been obvious to one of ordinary skill in the art at the time the invention was made to use such a thickness for the seal face part so that the cover was thin enough and flexible enough to enable a user to grip the opening tab using the film as well as enable the user to easily fold or peel back the material when opening the lid or when the lid is not in use” (Office Action, p. 3-4). However, there is no reason for a user to grip the opening tab using the film when the body cover 20 of Diaz is closed. A user would only open the tab of the can after removing the body cover 20. Moreover, it is speculative whether changing the thickness of the body cover 20 of Diaz to be within the range recited in claim 2 would enable the user to easily fold or peel back the material when opening the lid or when the lid is not in use.

Hardt discloses a metal can with a membrane covering the opening in the can sealed to a circumferential flange which is part of a necked-down region on the can body (Hardt 1:39-2:6). Hardt does not teach or suggest a seal face part and an outer-perimeter part, wherein a thickness of said seal face part is less than a thickness of said outer-perimeter part or that a thickness of said seal face part is equal to 0.4 mm or less and a thickness of said outer-perimeter part is equal to 0.5 mm or greater.

Therefore, none of Diaz, Deline or Hardt, alone or in combination, teach or suggest the features of claims 1 or 2. For at least these reasons, claim 1 as well as claim 2, which depends therefrom, are patentable over the cited references. Applicant respectfully requests that the rejection be withdrawn.

IV. New Claims

New claim 20 recites the elements of an “outer-perimeter part having a cross-sectional compositional shape that is circular.” As discussed, Deline does not teach or suggest an outer-perimeter part. Moreover, neither Diaz nor Hardt teach or suggest that this cross-sectional shape is circular. Furthermore, claim 20 also depends from claim 1 which is allowable.

New claim 21 recites the cap for canned drinks according to claim 1, wherein said seal face part has an expansion ratio of about 1:1.14. Support for this claim can be found in at least paragraph [0051] of the Pre-grant Publication. The recited expansion ratio allows the cap for canned drinks to be used with cans of different sizes. None of the cited references teach or suggest a seal face part having this expansion ratio or a seal face part capable of being used for cans of different sizes. For at least these reasons, claim 21 is patentable over the cited references.

New claim 22 recites the cap for canned drinks according to claim 1, wherein said seal face part is configured and arranged to deform to a bottom of said container for canned drinks. Support for this claim can be found in at least paragraph [0053] of the Pre-grant Publication. None of the cited references teach or suggest a seal face that is deformed to receive a bottom of said container. Diaz is the only reference that contemplate the problem of stacking multiple containers but addresses this problem by providing a stacking groove 40 integrally with the lid 22 in a mirror image of the bottom of the beverage can 26 (Diaz 4:55-59). Thus, Diaz does not teach or suggest a seal face part configured and arranged to deform to a bottom of said container for canned drinks. For at least these reasons, claim 22 is patentable over the cited references.

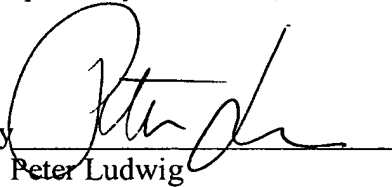
CONCLUSION

In view of the foregoing amendments and remarks, Applicant believes the pending application is in condition for allowance.

If the Examiner believes that any remaining issues can be resolved by a Supplemental or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: December 7, 2009

Respectfully submitted,

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